IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 9593 OF 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether Their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder ?

5 Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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THE AHMEDABAD ELECTRICITY CO. LTD.
Versus
RAMKISHAN SURAJMAL & ANR.

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Appearance :

1. Special Civil Application No. 9593 of 2004

MR. K.B. PUJARA for Petitioner
UNSERVED-EXPIRED (R) for Respondent No. 1
MR. J.B. PARDIWALA for Respondent No. 2

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date of decision : 05/05/2005

ORAL JUDGMENT

1. The present petition is filed by the petitioner challenging the order dated 28th July, 2004 passed by the learned Judge, City Civil Court, Ahmedabad below Application-Exh.7 in Civil Suit No.1955 of 2004.

2. Mr.K.B.Pujara, learned Advocate for the petitioner, submitted that as the suit is filed by a dead person, the same is required to be dismissed and the order challenged in this petition is also required to be quashed and set aside. He submitted that the petitioner will move an application before the trial Court for dismissing the suit as it is filed by a dead person.

3. In view of the fact that the suit filed before the trial Court is filed by a dead person, the present petition will not survive and is abated. However, if the petitioner moves an application before the trial Court for dismissing the suit on the ground that the same is filed by a dead person, then, the said application will be decided by the trial Court and the suit shall be dismissed. In the result, the order impugned in this petition cannot be allowed to stand. Hence, the same is quashed and set aside. The petition stands disposed of accordingly. Rule is made absolute. No order as to costs.

[K.S. Jhaveri, J.]

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